

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOSEPHINE WADE SMITH and)
RUPERT SMITH,)
Plaintiffs,) No.14 CV 5704
vs.)
) Judge Ellis
CSX TRANSPORTATION, INC.,)
Defendant.) Magistrate Judge Valdez

DEFENDANT CSX TRANSPORTATION, INC'S MOTION TO EXTEND DISCOVERY

Defendant CSX Transportation, Inc. (“CSXT”), by its attorneys, Sean M. Sullivan and Kathryn M. Doi of Daley Mohan Groble, P.C., respectfully requests a brief extension up to and including June 3, 2016, in order for the parties to fully complete fact discovery in this matter, including two previously subpoenaed depositions of fact witnesses. In support of this motion, Defendant CSXT states as follows:

1. Plaintiffs' Complaint alleges that Plaintiffs suffered property damage to their residence as a result of the manner in which CSXT has operated its locomotives and trains past the home, and Plaintiffs also allege that they have suffered certain medical ailments as a result of decades of vibrations from CSXT's locomotives. Furthermore, Plaintiffs allege that the damage caused by these long-term vibrations was exacerbated by a CSXT train derailment in September of 2012, which they claim caused further damage to their home and health.

2. Both parties have exchanged and answered written discovery. Defendant CSXT took the depositions of both Plaintiffs on March 23, 2016. Prior to those depositions, CSXT served deposition subpoenas upon the two engineers who performed separate inspections of Plaintiffs' residence and property subsequent to the derailment. Those witnesses, William

Boucher of Nederveld, Inc. and M. Vazir Ali of MVA Engineering, were served with CSXT's deposition subpoenas on January 21, 2016.

3. Mr. Boucher is located in Indianapolis, Indiana, and counsel for Defendant had originally secured a deposition date of April 29, 2016 for him. However, Mr. Boucher later had a conflict with that date, and the first available date he provided to CSXT for his deposition was May 9, 2016. Mr. Boucher's deposition will proceed at Nederveld, Inc. in Indianapolis on that date. However, Mr. Ali has not yet provided a date upon which CSXT can take his deposition, despite repeated requests from defense counsel.

4. Furthermore, after review of Plaintiffs' depositions, Defendant CSXT anticipates that it may proceed with depositions of several of the medical providers cited therein. The extent of any additional deposition subpoenas, records subpoenas or written discovery that may arise subsequent to the engineering or medical depositions is unknown at this time.

5. Fact discovery currently closes in this matter on May 2, 2016. In light of the foregoing issues, Defendant respectfully requests a brief extension of time up to and including June 3, 2016 for the parties to complete fact discovery in this matter.

6. Defendant CSXT files this motion in good faith and not for the purpose of improper delay, and no party will suffer any prejudice by the granting of this motion.

WHEREFORE, Defendant CSXT respectfully requests the Court to grant its motion to extend time to complete fact discovery up to and including June 3, 2016, and to grant any other relief that this Court deems appropriate.

Respectfully submitted,

CSX TRANSPORTATION, INC.

By:/s/ Kathryn M. Doi
KATHRYN M. DOI

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CERTIFICATE OF SERVICE

I, Kathryn M. Doi, an attorney, certify that I caused a true copy of the foregoing
NOTICE OF MOTION and DEFENDANT CSXT'S MOTION TO EXTEND
DISCOVERY to be served upon the attorneys listed below via ECF Electronic Filing and via
U.S. Mail on April 28, 2016.

David A. Epstein
Glenn M. Kanter
BROWN, UDELL, POMERANTZ & DELRAHM, LTD.
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By:/s/ Kathryn M. Doi
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